

810-3-25-.10 Computation of Alabama Taxable Income for an Estate or Trust for Tax Years Beginning after December 31, 2004. (NEW RULE)

(1) For tax years beginning after December 31, 2004, the computation of Alabama taxable income for an estate or trust shall be determined in accordance with Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code, 26 U.S.C. §§ 641 through 692, relating to estates, trusts, beneficiaries, and decedents, with certain exceptions, as specified below:

(a) The income and deductions of the estates and trusts shall be increased by any items that are includable or deductible by an individual in computing Alabama income tax but are not includable or not deductible by an individual in computing federal income tax. The income and deductions of the estates and trusts shall be decreased by any items that are not includable or not deductible by an individual in computing Alabama income tax but are includable or deductible by an individual in computing federal income tax.

1. The differences referred to in this paragraph are numerous, and can change with the passage of federal or Alabama tax legislation. This regulation does not intend to include a complete list of such differences.

2. Deduction for Federal Income Taxes Paid. One example of the differences is the treatment of payments for federal income tax. Federal income tax paid is allowed as a deduction to individuals in accordance with §40-18-15, Code of Alabama 1975, but is not allowed as a deduction for federal income tax purposes. Refunds of federal income tax paid in a prior tax year is includable as income in computing the Alabama taxable income for an individual taxpayer.

3. Depletion Deduction. The depletion deduction allowed individuals in computing Alabama taxable income is specified in §40-18-15, Code of Alabama 1975, but may differ from the depletion deduction allowed for federal income tax purposes.

4. Payments for State Income Taxes. State income taxes paid to a state other than Alabama may be deductible for federal income tax purposes, but is not deductible by an individual in computing Alabama taxable income - see §40-18-15, Code of Alabama 1975.

5. Tax Exempt Income. Tax exempt interest income for Alabama income tax purposes can differ from tax exempt interest income for federal purposes. Interest income from obligations of the United States or its possessions is taxable for federal income tax purposes and is exempt for Alabama income tax purposes - see §40-18-14, Code of Alabama 1975. Interest income from the obligations of the State of Alabama and the obligations of Alabama local political subdivisions is exempt for federal income tax purposes, and is exempt for Alabama income tax purposes - see §40-18-14, Code of Alabama 1975. Interest income from

non-Alabama state and local government obligations is exempt for federal income tax purposes, but not for Alabama income tax purposes - see §40-18-14, Code of Alabama 1975.

6. Federal Passive Activity Loss Restrictions. Estates and trusts are subject to certain federal passive activity losses restrictions, which are not applicable in computing Alabama taxable income.

7. Capital Gains and Losses. While federal income tax law may limit the amount of capital losses that may be claimed by a taxpayer in a tax year, in computing Alabama taxable income estates and trusts shall report gains and losses in accordance with §40-18-8, Code of Alabama 1975.

8. Charitable Contribution Deduction. In computing Alabama taxable income an estate or trust is only entitled to the charitable contribution deduction provided for individual taxpayers in §40-18-15, Code of Alabama 1975, not the unlimited charitable contribution deduction allowed by 26 U.S.C. § 642.

9. Net Operating Loss Deduction. In computing Alabama taxable income an estate or trust is only entitled to the net operating loss deduction provided for individual taxpayers in §40-18-15.2, Code of Alabama 1975, not the federal net operating loss deduction allowed by 26 U.S.C. § 172. In addition to the NOL deduction allowed by §40-18-15.2, Code of Alabama 1975, certain trusts are allowed a Special NOL Deduction by Section 4 of Act 2006-114.

10. Personal Exemption. The personal exemption amount allowed as a deduction to estates and trusts in computing Alabama taxable income is \$1,500 – the same amount allowed a single individual under §40-18-19, Code of Alabama 1975.

11. Nonresident Estate and Trust Income and Deductions. Nonresident estates and trusts must report Alabama source income in accordance with §40-18-14, Code of Alabama 1975, and are allowed deductions in computing Alabama taxable income in accordance with §40-18-15, Code of Alabama 1975.

12. Deductions not Claimed on the Federal Return in Order to Take a Federal Employment Tax Credit. Certain federal employment tax credits require the wages to be reduced in the amount of the credit taken – the amount the wages were reduced would be allowed as a deduction for Alabama income tax purposes.

13. Deduction for Foreign Income Taxes Paid. In some cases a taxpayer may deduct foreign income taxes paid or accrued for federal income tax purposes. An estate or trust is prohibited by §40-18-15, Code of Alabama 1975, from claiming a deduction for foreign income taxes paid or accrued in computing Alabama taxable income.

#### 14. Federal Estate Tax.

1. An estate or trust in computing Alabama taxable income is prohibited by §40-18-25(f), Code of Alabama 1975, from claiming the deduction otherwise allowable under 26 U.S.C. § 691(c)(1)(A), the federal deduction for a portion of the estate tax paid when income in respect of a decedent is reported.

2. Federal estate taxes paid are allowed as a deduction to individuals in computing Alabama taxable income - in accordance with §40-18-15, Code of Alabama 1975.

(b) The Alabama income distribution deduction is computed in accordance with 26 U.S.C. §§ 651 and 661, including any limitations, using amounts determined in accordance with Title 40, Chapter 18, Code of Alabama 1975.

(c) An estate or trust in computing Alabama taxable income cannot claim a deduction for any item more than once.

Author: Voncile Catledge, Joe Garrett, and Ed Cutter, CPA

Authority: §40-2A-7(a)(5), Code of Alabama 1975

History: